

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Trademark Trial and Appeal Board**  
**2900 Crystal Drive**  
**Arlington, Virginia 22202-3513**

Lykos

Mailed: November 6, 2003

Opposition No. 91124984

Gillette Canada Company  
d/b/a Oral-B Lab

v.

Robin Research  
Laboratories, Inc.

Angela Lykos, Interlocutory Attorney

On January 30, 2003, the Board suspended proceedings herein pending disposition of opposer's motion to compel (filed October 15, 2002).

The Board is not in receipt of any brief in opposition to opposer's motion. Nonetheless, the Board, pursuant to our discretion under Trademark Rule 2.127(a), will not treat opposer's motion as conceded, but rather will decide the motion on the merits. See TBMP § 502.03.

The Board hereby denies opposer's motion to compel as untimely. Trademark Rule 2.120(e) requires that a motion to compel be filed prior to the commencement of the first testimony period as originally set or as reset. According to the trial schedule established in the institution order

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dated January 25, 2002, the first testimony period closed November 9, 2002 and opened 30 days prior thereto.

Opposer's motion to compel, filed on October 15, 2002, was filed after the opening of the first testimony period, and therefore is untimely.

Proceedings herein are resumed and trial dates are reset as follows:

THE PERIOD FOR DISCOVERY TO CLOSE:	CLOSED
30-day testimony period for party in position of plaintiff to close:	January 15, 2004
30-day testimony period for party in position of defendant to close:	March 15, 2004
15-day rebuttal testimony period for plaintiff to close:	April 29, 2004

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

### **New Developments at the Trademark Trial and Appeal Board**

- Files of TTAB proceedings can now be examined using TTAB Vue, accessible at <http://ttabvue.uspto.gov>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format. Papers filed prior to January 2003 may not have been scanned. Unscanned papers remain available for public access at the TTAB. For further information on file access, call the TTAB at (703) 308-9330.
- Parties should also be aware of recent changes in the rules affecting trademark matters, including the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003) ([www.uspto.gov/web/offices/com/sol/notices/68fr55748.pdf](http://www.uspto.gov/web/offices/com/sol/notices/68fr55748.pdf)); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003) ([www.uspto.gov/web/offices/com/sol/notices/68fr48286.pdf](http://www.uspto.gov/web/offices/com/sol/notices/68fr48286.pdf)).
- The second edition (June 2003) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at [www.uspto.gov/web/offices/dcom/ttab/tbmp/](http://www.uspto.gov/web/offices/dcom/ttab/tbmp/).